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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MORRIS NELSON, Individually and on
Behalf of All Other Persons Similarly
Situating,

Plaintiff,

v.

FIRST TRANSIT, INC.,

Defendant.

Civil Action No. 1:11-cv-4366-NG-RML

**NOTICE OF THE PARTIES' JOINT MOTION FOR
PRELIMINARY APPROVAL OF SETTLEMENT,
CONDITIONAL CERTIFICATION OF THE FLSA CLASS,
AND APPROVAL OF PROPOSED NOTICE**

Subject to Court approval, Defendant First Transit, Inc. (“First Transit” or “Defendant”) and Plaintiff Morris Nelson (“Plaintiff”) (collectively “the Parties”) have settled Plaintiff’s claims against Defendant. The proposed settlement resolves the claims of Plaintiff and provides an opportunity for similarly situated persons to join the case and participate in the settlement. The Parties request that the Court preliminarily approve the settlement, conditionally certifying the FLSA class for settlement purposes only, and approve the proposed Notice to be sent to the Class Members. The Class Members will only be bound by this settlement if they return the Consent Forms attached to the proposed Notice.

On June 13, 2012, the Court held a status conference regarding the Parties’ prior Settlement Agreement (which was filed with the Court on June 4, 2012 [Doc. No. 10]). At the status conference, the Court expressed concerns regarding the materials the parties previously submitted in support of their previously-filed Motion for Approval of the Settlement [Doc. No. 11]. The parties submit this Amended Motion for Approval of the Settlement in order to address the concerns expressed by the Court at the June 12, 2012 status conference. This Amended Motion and the materials attached hereto, including the Amended Settlement Agreement attached hereto as Exhibit 1, supersede and replace the prior settlement materials submitted to the Court.

Accordingly, for the reasons explained in the Parties’ Memorandum of Law in Support of their Joint Motion for Preliminary Approval of the Settlement, filed contemporaneously herewith, the Parties jointly request that the Court (1) preliminarily approve the parties’ Amended Joint Stipulation of Settlement and Release (“Amended Settlement Agreement”), ; (2) conditionally certify the proposed FLSA class under 29 U.S.C. § 216(b); (3) approve one of the alternative proposed Notices attached to the Amended Settlement Agreement

as Exhibits A-a and A-2 for distribution to the Class Members; and (4) schedule a final fairness hearing on a date after the notice and opt-in period has expired.

Respectfully and jointly submitted this 1st day of August, 2012,

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